

5.2 T200380 Building and works associated with construction of a dwelling at 55 Mullane Rd, Pakenham

Responsible GM: Peter Benazic
Author: Dean Haeusler

Recommendation(s)

That Council issue Refusal to Grant Planning Permit T200380 for buildings and works associated with the construction of a replacement dwelling at 55 Mullane Road, Pakenham VIC 3810 on the following grounds:

- Inconsistent with the protection of agricultural land
- Visual bulk and landscape impact
- Insufficient information provided

Attachments

1. T 200380 PA - Development Plans [5.2.1 - 6 pages]
2. T 200380 PA - Locality map [5.2.2 - 1 page]
3. CONFIDENTIAL REDACTED - T 200380 PA - Compiled objections [5.2.3 - 29 pages]

Executive Summary

APPLICATION NO.:	T200380
APPLICANT:	Mr Steven Perisanidis
LAND:	55 Mullane Road, Pakenham VIC 3810
PROPOSAL:	Buildings and works associated with the construction of a dwelling
PLANNING CONTROLS:	Green Wedge Zone Schedule 1 Land Subject to Inundation Overlay Environmental Significance Overlay – Schedule 1
NOTIFICATION & OBJECTIONS:	Letter and signage on-site 23 objections received
KEY PLANNING CONSIDERATIONS:	Impact to agriculture and rural productivity Landscape impact and visual bulk Land capability for effluent management
RECOMMENDATION:	Refusal

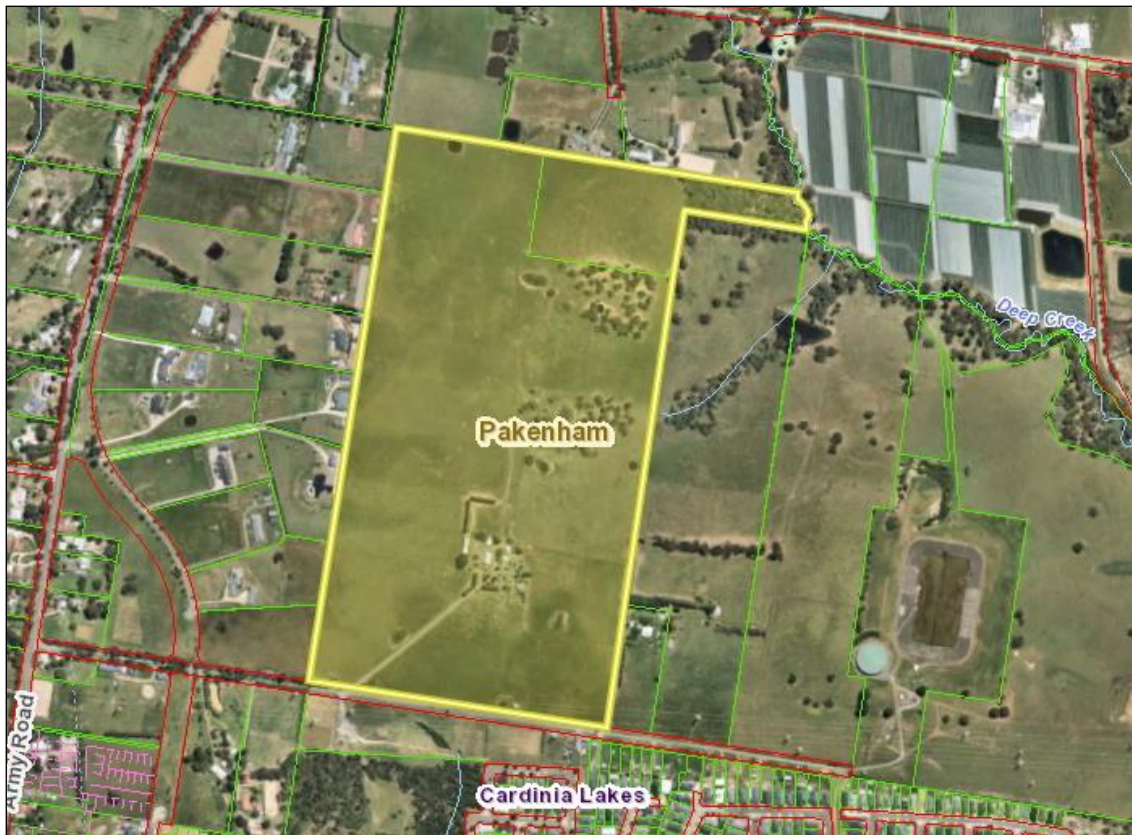
Background

An application was received in late December 2019 under application T190769 to use the land for a residential building including short term accommodation associated with a vineyard. Council raised concerns in relation to the proposed land use as the vineyard had not been established and should be an ancillary component to a primary productive use of the land.

The application was subsequently withdrawn and resubmitted on 22 June 2020 as a replacement to the existing dwelling on the site that's currently before Council in this application.

The subject site contains a dwelling and benefits from existing land use permissions for the purpose of a "replace dwelling" application.

Subject Site



The subject site is a rural property that comprises two parcels of land totalling approximately 45 hectares. The property is situated on the northern side of Mullane Road that forms the edge of the Urban Growth Boundary and roughly 3 kilometres north-east of the Pakenham Activity Centre.

A crossover is located toward the south-west corner of the site that services a dwelling, outbuildings and range of rural buildings including a hay shed situated centrally on the property and approximately 200 metres from the road.

The site has been predominantly cleared of vegetation with pockets of sparse trees toward the north east of the site and planted vegetation around the buildings. The site plateaus towards the centre of the property, north of the buildings and slopes moderately to each boundary at a grade of approximately 7% to Mullane road.

The adjoining properties are identified as follows:
[eg residential, proximity to shops/public transport if appropriate]

NORTH

Rural residential properties located off Army Settlement Road each containing dwellings and associated buildings.

EAST

Deep Creek; large horticultural property and associated buildings situated off Army Settlement Road; 16 hectare rural parcel containing agricultural shedding and a 1.5 hectare rural/residential parcel containing one dwelling and outbuildings.

SOUTH

Cardinia Lakes estate containing detached single storey dwellings on lots ranging from 350 to 1400 square metres. 40 Tahoe circuit lies adjacent to the length of the subject site containing storage and an electricity transmission easement.

WEST

Developed rural-residential parcels of approximately 2 hectares located off Cremin Drive.

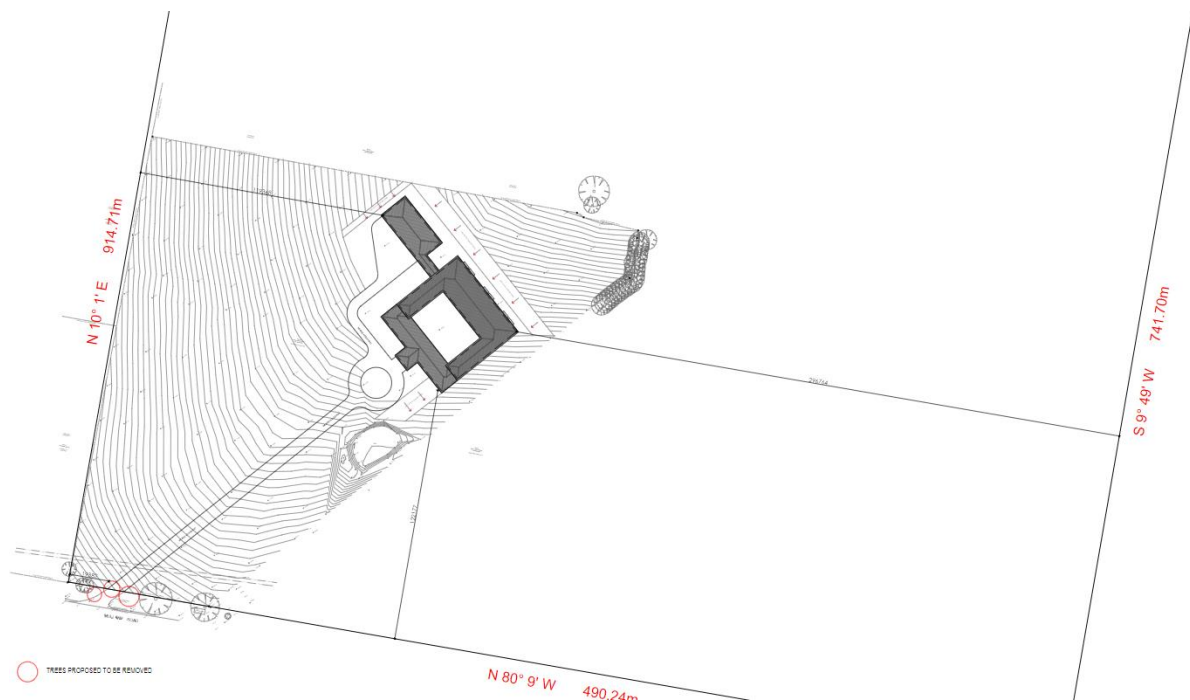
Relevance to Council Plan

Nil.

Proposal

The proposal seeks to demolish the existing dwelling from the land and construct a double storey dwelling and attached garage.

The new dwelling will be located closer to the south-west corner of the site, 122.18 metres from the road and 119.37 metres from the west and 296.76 metres from the eastern boundaries.



The dwelling will be constructed in what is described by the applicant as a Siheyuan home setting designed to accommodate family and extended family within the one building.

The design features a split-level profile arranged in a square shape with a large open central courtyard. The dwelling be a combined total of 3,584 square metres floor area and include multipurpose, living areas and some bedroom suites on the ground floor while the first floor will contain bedrooms and suites only.

The dwelling contains:

- 18 bedrooms with ensuites (some containing retreat areas and balconies)
- 4 theatre and games/arcade rooms
- 2 lounge rooms
- 2 Gym rooms
- 2 prayer rooms
- 2 kitchens including one open plan area to accommodate dining living and kitchen areas
- A number of other general purpose rooms, bathrooms/toilets.
- The garage will accommodate approximately fourteen vehicles with a breezeway connection to the main residence.

The design will be a tradition style constructed of rendered brick and horizontal weatherboard style cladding in a combination of light and dark grey tones cladding along with a Charcoal tiled roof.

The dwelling will be a maximum of 10.91 metres tall above ground level with a maximum 2.68 metres of site cut against the northern rise of the land and 0.97 metres of fill.

It is noted that the plans do not demonstrate the highest point above natural ground level from some aspects and therefore maximum height is estimated at approximately 12 metres.

The garage will follow a similar theme and materials with a three-door access from the southern aspect. The maximum height will total 6.51 metres.





Planning Scheme Provisions

Planning Policy Framework (PPF)

The relevant clauses of the PPF are:

- Clause 12.05-2S Landscapes
- Clause 14.01-1S Protection of agricultural land
- Clause 14.01-1R Protection of agricultural land – Metropolitan Melbourne
- Clause 16.01-3S Rural residential development

Local Planning Policy Framework (LPPF)

The relevant clauses of the LPPF are:

- Clause 21.02-2 Landscape
- Clause 21.04-2 Agriculture
- Clause 22.05 Green Wedge Management Policy

Relevant Particular/ General Provisions and relevant incorporated or reference documents

The relevant provisions/ documents are:

- Clause 51.02 Metropolitan Green Wedge Land: Core Planning Provisions
- Clause 65 Decision Guidelines

Zone

The land is subject to the **Green Wedge Zone Schedule 1**

Overlays

The land is subject to the following overlays:

- Land Subject to Inundation Overlay
- Environmental Significance Overlay – Schedule 1

Planning Permit Triggers

The proposal for buildings and works associated with the construction of a dwelling requires a planning permit under the following clauses of the Cardinia Planning Scheme:

- Pursuant to Clause 35.04-5 of the Green Wedge Zone a planning permit is required to construct a building associated with a section 2 use.
- Pursuant to Clause 42.01-2 of the Environmental Significance Overlay a planning permit is required for to construct a building (exceeding 7 metres in height).
- Pursuant to Clause 42.01-2 of the Environmental Significance Overlay a permit is required to carry out works (exceeding one metre in depth).

Public Notification

The application has been advertised pursuant to Section 52 of the *Planning and Environment Act 1987*, by:

- Sending notices to the owners and occupiers of adjoining land.
 - Placing a sign on the frontage to Mullane Road.

The notification has been carried out correctly, and Council has received 23 objections to date.

The key issues that were raised in the objections are:

- Infrastructure capacity – road network, effluent management
- Characterisation of land use
- Visual impact
- Impact to agricultural land

Referrals

There were no statutory referrals as part of assessment process.

Discussion

Planning policy framework

A number of state and local policies apply to the assessment of this application. The following is an assessment against the most applicable policies in the Cardinia Planning Scheme.

Clause *14.01-1S Protection of agricultural land* highlights the importance of protection of productive farmland by way of preventing inappropriately dispersed urban activities in rural areas, the permanent removal of farmland and the compatibility between the proposed or likely development and the existing use of the surrounding land. Likewise, *Clause 21.04-2 Agriculture*, provides that productive agricultural land must be protected from incompatible uses and inappropriate development.

The proposal is inconsistent with these policies as the proposal acts to undermine productive land uses and the capacity for the subject land to be used for agricultural purposes. While the proposal benefits from dwelling land use permissions, the size of the replacement dwelling prioritises a residential over an agricultural usage as the primary cause of the land.

In addition to the agricultural policies, *Clause 16.01-3S Rural Residential Development* seeks to identify land suitable for rural residential development with strategies that include managing development in rural areas to protect agriculture and avoid inappropriate rural residential development.

The dwelling is situated to mitigate the impact of the dwelling on the sensitive farming interfaces by locating towards the south-west corner of the site, adjoined by other residential properties. Given the proposal benefits from land use rights for one dwelling, the suitability of the land for this use is not under assessment.

Environmental and landscape policy including *Clause 12.05-2S Landscapes* are also of relevance to the assessment of this proposal. This policy includes objectives to protect and enhance landscapes and open spaces that contribute to character, identity and sustainable environments. The policy also includes strategies to ensure development does not detract from the natural qualities of significant landscape areas.

The property borders residential and rural areas and features in a prominent location relative to nearby residential estates such as Cardinia Lakes, Cardinia Views and Pakenham Hills. The building is considerably larger than a standard dwelling with a design that accentuates its scale. As a result, the impact of the new dwelling is amplified and does not sufficiently respond to the rural character or environmental constraints of the landscape its sited.

Green Wedge Zone (GWZ)

The Green Wedge Zone primarily provides for agricultural uses and sustainable farming practices while encouraging the protection of environmental, historic, cultural and landscape assets and facilitating recreational and tourism opportunities.

The following assessment provides a review of the proposal against the various considerations of the zone:

DESIGN AND SITING

The need to minimise adverse impacts on the character and appearance of the area

The siting, design and scale of the building are expected to result in a highly prominent building that does not respect the rural landscape context. Further discussion is provided in the assessment against the Environmental Significance Overlay – Schedule 1 below.

The need to minimise any adverse impacts of siting, design, height, bulk and colours and materials to be used

The materials and colours are generally considered muted and do not represent an unreasonable visual impact on the landscape. However, the design response does not sufficiently address the site topography and openness with no articulation of the bottom floor to assist in integrating the dwelling in the landscape.

GENERAL ISSUES

The capability of the land to accommodate the proposed use or development

From a perspective of property size, the land is considered capable of accommodating the dwelling however it is noted that the capability for the land to contain and manage effluent has not been demonstrated by the applicant.

How the use or development relates to rural land use, rural diversification, natural resource management, natural or cultural heritage management, recreation or tourism

The proposal is to replace an existing dwelling on the land. The land benefits for existing use rights for a dwelling and therefore the assessment of the dwelling is limited to the building and works only.

There has been no evidence or information provided that demonstrates existing or future intentions for the productive use of the land and does not directly support agricultural land management.

Whether the site is suitable for the use or development and the compatibility of the proposal with adjoining land uses

The site is surrounded by a mixture of suburban residential, rural-residential, productive grazing and horticultural properties. Given the mixed nature of development and land use, residential development is considered compatible with the area.

The dwelling is sited toward existing rural-residential areas, increasing separation distances from neighbouring agricultural uses and mitigating the impact to these properties.

RURAL ISSUES

The maintenance of agricultural production and the impact on the rural economy

The importance of rural productivity is recognised as the primary purpose of the Green Wedge Zone. Given the nature of the proposal, the replacement dwelling is not expected to improve the productive use of the land.

It is further noted that the subject site is a large portion of contiguous farmland with a higher capacity for productive land use. The construction and use of a large dwelling, including the associated amenities is expected to minimise viable area for farming.

The impact on the existing and proposed rural infrastructure

The impacts to the existing infrastructure are predominantly related to the increase in traffic that will be introduced by the dwelling. Although significant increase in size, the increase traffic flows are expected to be met by the road network.

The potential for the future expansion of the use or development and the impact of this on adjoining and nearby agriculture and other land uses

There is no limitation on maximum dwelling sizes under the planning controls therefore there is a realistic likelihood the use and scale of the dwelling may increase over time and impact surrounding land uses.

ENVIRONMENTAL ISSUES

The impact of the use or development on the flora and fauna on the site and its surrounds

The site is clear of vegetation and not located in proximity to any watercourses, wetlands or reserves.

How the use or development relates to sustainable land management and the need to prepare an integrated land management plan

Due to the scale of the dwelling some environmental pressures are anticipated, such as effluent management. A Land Capability Assessment was requested for the proposal to determine whether the property could contain effluent on-site and determine the appropriate size and location of an effluent field. This information was not supplied to Council on the basis that COVID restrictions limited the ability for an on-site assessment.

SUMMARY

The replacement dwelling does not act to enhance the rural productivity or viability of the property nor positively impact nearby agricultural land. As a consequence of the scale and the amenities required to support the dwelling, the proposal is also expected to erode the productive potential of a property with a strong agricultural attribute.

Environmental Significance Overlay – Schedule 1 (ES01)

The Environmental Significance Overlay seeks to identify areas where development may be affected by environmental constraints and ensure development is compatible with identified environmental values.

Schedule 1 to the overlay relates to the Northern Hills area of the municipality which is recognised for its significant landscape, environmental values and biodiversity. The schedule includes environmental objectives, including:

- protect and enhance significant environmental and landscape values;
- ensure that the siting and design of buildings and works addresses environmental hazards including slope, erosion and fire risk, the protection of view lines and maintenance of vegetation as the predominant feature of the landscape.

Under this overlay, planning permission is required to construct a building exceeding 7 metres in height and for earthworks exceeding 1 metre. Any application needs to be assessed against the decision guidelines as relevant to the application. These guidelines include:

- the protection and enhancement of the natural environment and character of the area;
- the impact of the proposed building and works on the landscape character including prominent ridgelines and significant views, and;

- Whether the siting, height, scale, materials, colours and form of the proposed buildings and works have been design to have the least visual impact of the environment and landscape.

In the context of this overlay the site is situated on the urban fringe of Pakenham and represents the beginning of the foothills to the wider ranges areas. The land slopes up from Mullane road and is mostly devoid of vegetation, ensuring the location is both exposed and visually prominent from the suburban areas of Pakenham. Consequently, the property is situated in a highly visible location and therefore demands a strong design response to integrate with the rural landscape and respect the surround area.

The building is significantly larger than an average dwelling at approximately 14.5 times the average floor area for dwellings in Victoria (Building Activity Australia, 2019). The dwelling reflects an alpine style design with a strong geometric form and features large continuous facades with little articulation in the second storey. The combination of this form with the total building height in excess of 11 metres results in a visually dominant building.

Some methods have been used to reduce the visual bulk of these facades through a reduced second storey however the sizeable coverage of the building and openness of the landscape add to the perception of landscape impact to this area.

The design also results in a large volume of earthworks to a maximum depth of 2.68 metres to allow a level building area. This will result in a significant alteration to the landscape topography and does not demonstrate a site-responsive design that acknowledges the constraints of this location.

As a consequence of the above the design response does not satisfy the requirements of the Environmental Significance Overlay.

Clause 51.02 Metropolitan Green Wedge Land: Core Planning Provisions

The following objectives form the basis of this provision:

- *This clause outlines the protection of the metropolitan green wedge land from uses and development that diminish the agricultural, environmental, cultural heritage, conservation, landscape natural resources or recreation value.*
- *Protection of agricultural land from incompatible uses and development*
- *Ensuring that the scale of use is compatible with the non-urban character of metropolitan green wedge land*

The proposed dwelling is not listed in the table to Clause 51.02-2 and is therefore not considered prohibited.

RESPONSE TO OBJECTIONS

The following is a response to the key issues raised in the objection, unless already addressed in the response to the zone and overlay:

■ *Infrastructure capacity – road network, effluent management*

As mentioned in the assessment against the zone, the proposal is expected to have some impact to infrastructure including increased demand on Mullane Road. This demand is not expected to exceed the capacity of the street and the wider network is otherwise capable of containing the dwelling.

The capacity for the property to manage effluent has not been demonstrated by the applicant.

■ *Characterisation of land use*

The definition of a dwelling under the Planning Scheme is broad and is not characterised by the scale of a building or the number of rooms. While an interpretation of the building's purpose in the context of the intended use is relevant to the consideration of an application, the building and floorplan can be classified as a dwelling by definition under the planning scheme.


Conclusion

The proposed dwelling and associated works are considered inappropriate for the subject site due to the impact to productive agricultural land and visual impact of the building on the scenic and rural landscape. The proposal is inconsistent with the relevant Planning Policies, Zone and Overlay.

It is recommended that a Refusal to Grant Planning Permit **T200380** be issued for '**buildings and works associated with the construction of a dwelling**' at 55 Mullane Road, Pakenham based on the following:

1. The proposal would undermine the agricultural viability of the land sought to be preserved by:
 - Clause 14.01-1S Protection of agriculture land
 - Clause 21.04-2 Agriculture
 - Clause 35.04 Green Wedge Zone
2. The proposal does not respond to the environmental and landscape characteristics of the site that are sought to be preserved by:
 - Clause 12.05-2S Landscapes
 - Clause 22.05-2 Landscape
 - Clause 42.01 Environmental Significance Overlay
3. The application is incomplete and no documentation was provided to Council to demonstrate the ability of the property to contain and manage effluent from the dwelling.



<div><div><div>A1</div><div>591 PLENTY ROAD, PRESTON, 3072, VIC. TEL: 613 9478 8873, EMAIL: archiscale@mac.com, WEB: archiscale.com</div></div></div> <div>This plan or design may not be copied, loaned or borrowed without the written consent of ArchiScale.</div>	CLIENT: JINTAO ZHOU	DRAWN: ARCHISCALE A.H.	JOB NO:	DATE: AUGUST 2020	SCALE: 1:2000@A1	SITE ADDRESS: 55 MULLANE ROAD, PAKENHAM, 3810. CARDINIA SHIRE COUNCIL	DWG NO. TP01 OF 06	



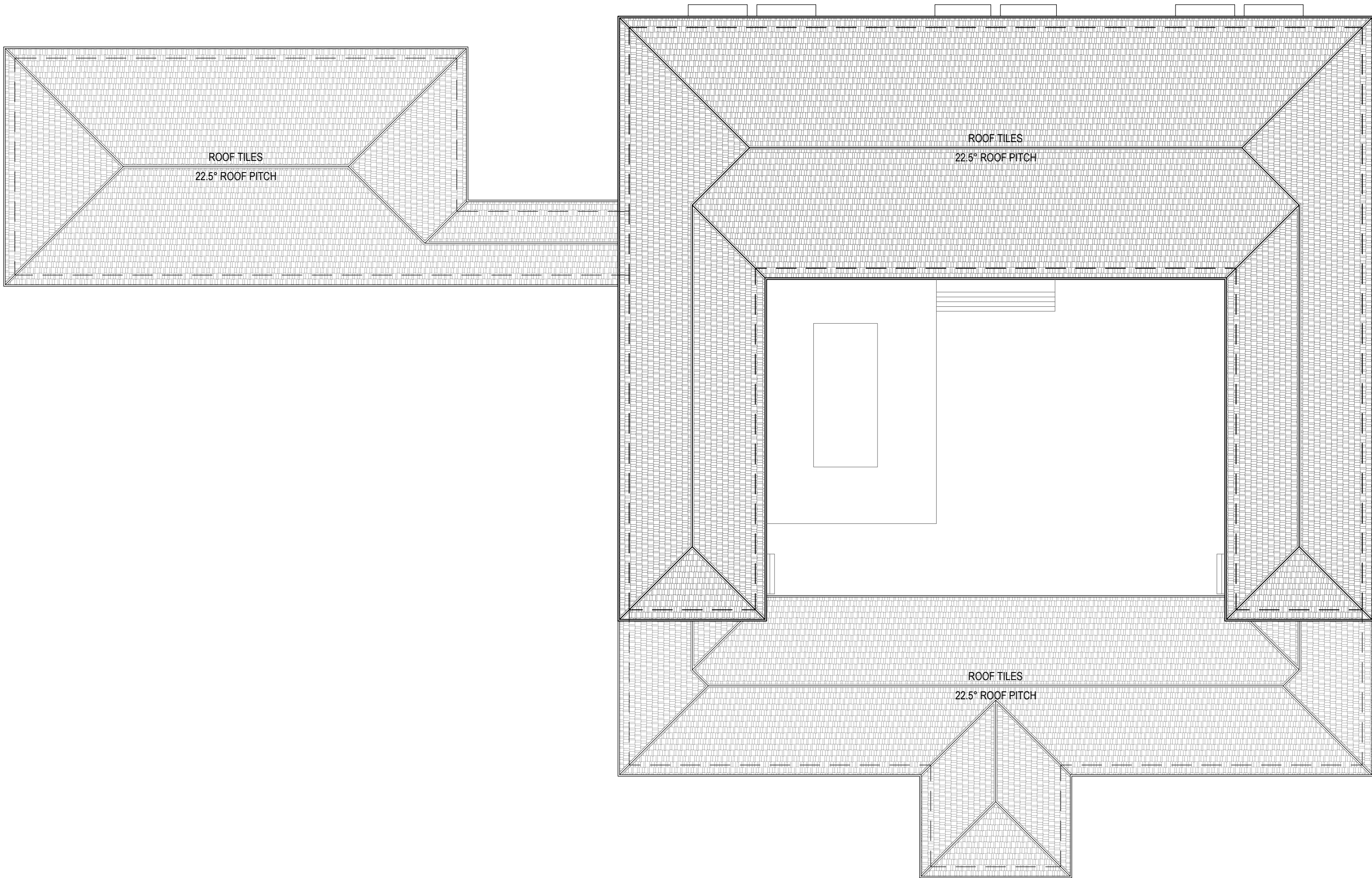
BUILDING AREA

DEVELOPMENT SUMMARY &
GROSS BUILDING AREA:


SITE AREA:.....458419.73m²

GROSS BUILDING AREA:

PROPOSED BUILT AREA:
GARAGE376.72m2
GROUND FLOOR.....2,175.65m2
FIRST FLOOR.....1,031.94m2
TOTAL3,584.31m2 385.81SQs



PROPOSED
ROOF PLAN

<div> 591 PLENTY ROAD, PRESTON, 3072, VIC. TEL: 613 9478 8873, EMAIL: archiscale@mac.com, WEB: archiscale.com</div>	<div>A1</div>	CLIENT:	DRAWN:	JOB NO:	DATE:	SCALE:	SITE ADDRESS:	DWG NO.	<div>NORTH </div>
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		A.H.					CARDINIA SHIRE COUNCIL		

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BUILDING AREA

DEVELOPMENT SUMMARY &
GROSS BUILDING AREA:

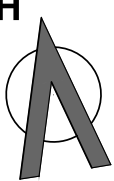
SITE AREA:.....458419.73m²

GROSS BUILDING AREA:

PROPOSED BUILT AREA:
GARAGE.....376.72m²
GROUND FLOOR.....2,175.65m²
FIRST FLOOR.....1,031.94m²
TOTAL3,584.31m² 385.81SQs



PROPOSED
GROUND FLOOR PLAN

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		JINTAO ZHOU	ARCHISCALE	-	AUGUST 2020	1:200@A1	55 MULLANE ROAD, PAKENHAM, 3810.	TP04 OF 06	
			A.H.				CARDINIA SHIRE COUNCIL		

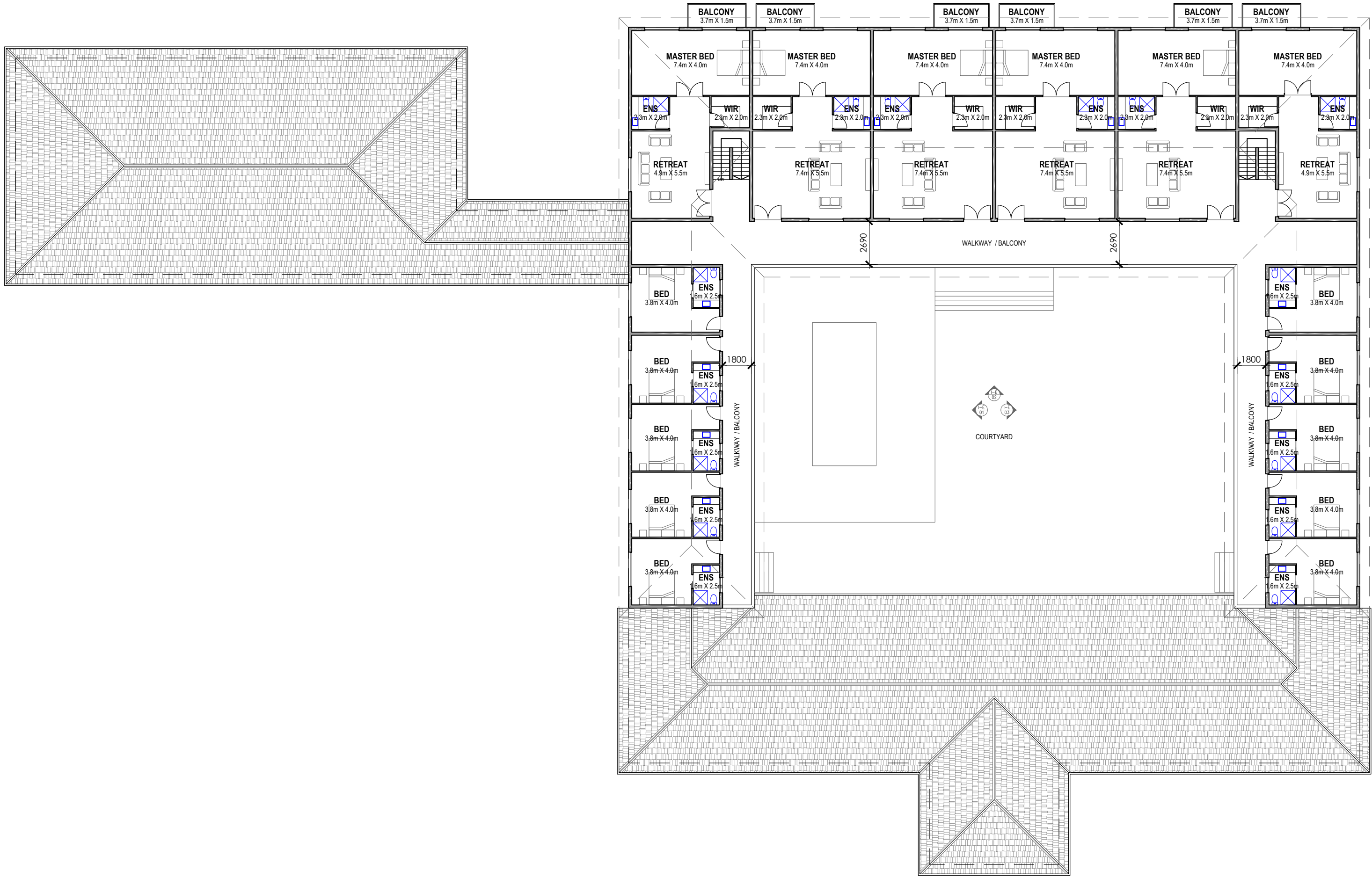
BUILDING AREA

DEVELOPMENT SUMMARY &
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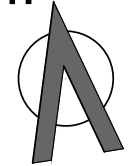
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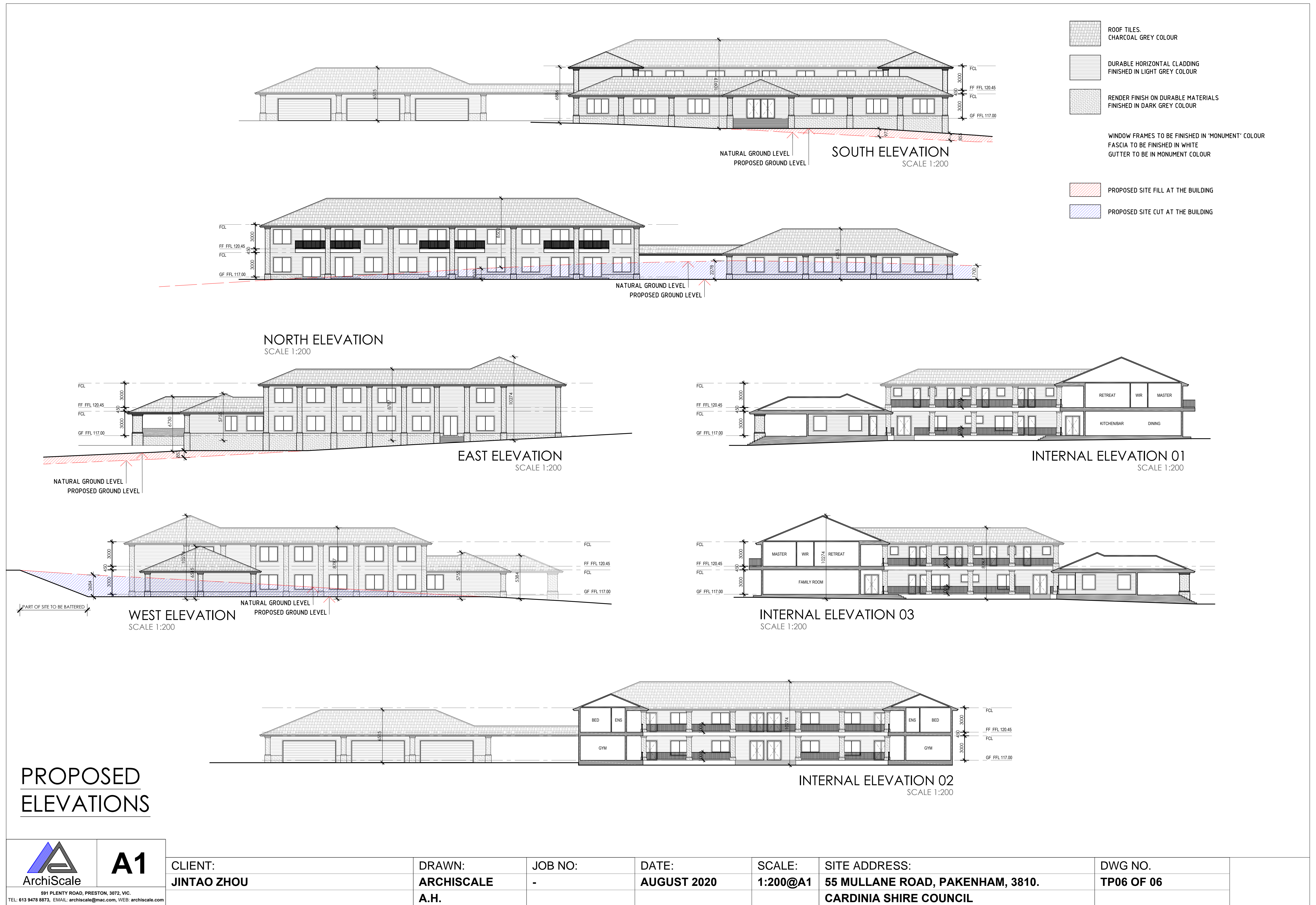
PROPOSED BUILT AREA:
GARAGE.....376.72m²
GROUND FLOOR.....2,175.65m²
FIRST FLOOR.....1,031.94m²
TOTAL3,584.31m² 385.81SQs



PROPOSED
FIRST FLOOR PLAN

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T200380 PA - Locality map



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14-Jan-2021

Notes

1: 10,952

Data Source: State & Local Government. © CARDINIA SHIRE COUNCIL

